

Attorney Docket No. 00-VE13.37 (65632-0127)
Serial No. 09/263,311

REMARKS

Reconsideration and allowance are respectfully requested. Claim 1 has been cancelled without prejudice or disclaimer. Claims 3-24 are currently pending.

Rejection of Claims 1, 4 and 5 under 35 U.S.C. §102(e)

Claims 1, 4 and 5 were rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,447,248 B1 to Bruhnke. Claim 1 has been canceled, thereby rendering the rejection moot with respect to this claim. Accordingly, the following remarks address this rejection with respect to claims 4 and 5.

The Examiner states that "claim 4 is essentially similar to claim 1, wherein Fig. 7 of Bruhnke et al illustrates all the limitations of claim 4." At the outset, Applicants submit that this statement is entirely incorrect, as there are substantial differences between claim 4 and now canceled claim 1. Moreover, the Examiner is kindly reminded that the Office must show where in the prior art each of the claim limitations are taught. *In re Yates*, 663 F.2d 1054, 1057, (CCPA 1981). Omnibus rejections should be avoided. MPEP 707.07(d). This discussion applies equally to the Examiner's rejection of claim 5.

More importantly, however, is that Figure 7 of Bruhnke fails to disclose the elements recited in claim 4. The express language of the claim recites two connection mechanisms, each having a first normally closed contact in series between a first terminal and a second terminal and a second normally closed contact in series between a third terminal and a fourth terminal.

First, Bruhnke does not disclose any contacts in series between terminals. Reviewing Figure 7, solid lines are shown with no terminals illustrated or described whatsoever. The remainder of the reference does not rectify the situation, as nowhere in the reference are terminals shown being in series with a normally closed contact. More importantly is that the idea behind Bruhnke is to provide connectivity between multiple stations that are already connected to the system. Specifically, the disclosed

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system essentially provides a switch that allows switching between a preset number of stations that are already connected to the switch. Thus, Bruhnke is more akin to a TV selector, which allows selection between a preset number of existing channels. Bruhnke does not address the situation where unknown service providers may at some point desire to be a selection option by a user of the terminal block. Therefore, Bruhnke does not provide for terminals that allow connection and disconnection of its stations.

Bruhnke also does not teach normally closed contacts. Instead, Bruhnke teaches switches that switch between a first state and a second state. The first state connects to line 1 while the second state connects to line 2. Such a configuration is not a normally closed contact by any definition, especially according to how Applicants' specification sets out its use of a normally closed contact. "Claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their 'broadest reasonable interpretation.'" *In re Marosi*, 710 F.2d 799, 802 (Fed. Cir. 1983); *See also* MPEP 2111.01.

Additionally, and most importantly, the Examiner has not provided or asserted that the two terminal limitation or the normally closed switch limitation reads on the cited art. Instead, the Examiner merely states that claim 4 is similar to claim 1, wherein claim 1 does not include this limitation. Accordingly, the Examiner has not shown that each and every element of the claim limitation is met, and therefore a *prima facie* case has not been made and Applicants are under no duty to even respond. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987); MPEP 2131. It is the Examiner's duty to show where each limitation may be found. *In re Yates*, 663 F.2d 1054, 1057, (CCPA 1981).

The Examiner's rejection follows a pattern of generalizing the claim elements to a substantially high level of abstraction, if at all, and then cites references presumably to address the claims. The Examiner's statement that "claim 4 is essentially similar to claim 1, wherein Fig. 7 of Bruhnke et al illustrates all the

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limitations of claim 4" is one of many examples of this practice. The rejections against the dependent claims provide further examples, as will be discussed below in more detail. This practice was specifically rebuked by the United States Court of Appeals for the Federal Circuit in *In re Thrift*, 63 USPQ2d 2002 (Fed. Cir. August 9, 2002), a decision that prohibits the rejection of claims based on a "very general and broad conclusion" when "cited references do not support each limitation" in a claim. Accordingly, Applicant respectfully requests reconsideration of the rejected claims.

Rejection of Claims 1, 3-24 under 35 U.S.C. §102(e)

The Examiner next rejects claims 1, 3-24 under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,307,933 B1 to Stehlin et al. Claim 1 has been canceled, thereby rendering the rejection moot with respect to this claim. Accordingly, the following remarks address the remaining claims.

The Examiner states that Stehlin discloses connecting or disconnecting the service providers by plugging or unplugging the terminal block. However, Stehlin fails to teach insulating plugs or any form of insulating plugs that can be inserted into normally closed contacts. Instead, Stehlin simply shows that subscriber lines maybe connected by inserting "jacks." Such jacks are not insulating and they are not used to be inserted into a normally closed contact. Instead, these jacks reside at the end of a wire and are inserted to complete connection, not disable it. Accordingly, as the cited reference does not show each and every element of the claim limitation, a *prima facie* case has not been made and Applicants submit that the rejected claims are in a condition for allowance. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987). To the extent that the Examiner relies on the state of the art, such official notice is traversed in accordance with MPEP 2144.03.

Rejection of Claims 7-9, 10-11, 13-17, 18-21, 22, 12, 23-24.

The Examiner rejects the above referenced claims by grouping the claims and applying general rejections to each of the groups. "A plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable

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to all claims in the group." MPEP 707.07(d). Claims should not be rejected based on a "very general and broad conclusion" when "cited references do not support each limitation" in a claim. *In re Thrift*, 63 USPQ2d 2002 (Fed. Cir. August 9, 2002), See also *In re Yates*, 663 F.2d 1054, 1057, (CCPA 1981).

For example, rejections such as "claims 18-21 are essentially similar to claims 10-11" and "claims 12, 23-24 are essentially similar to claim 3 and are rejected for the reasons stated above" are improper. Such rejections produce a muddled record that leaves the public unclear as to where the metes and bounds of the claim limitations reside. It also leaves Applicants at a disadvantage as it is unclear how to respond to such omnibus rejections. Nevertheless, Applicants submit that the limitations found in the rejected claims are not disclosed in the cited reference, and therefore all claims are in a condition for allowance. For example, the cited reference does not disclose insulating plugs that may be inserted into the first and second normally closed contacts so as to connect a customer with the second telecommunications service provider, or into the third and fourth normally closed contacts so as to connect the customer with the first telecommunications service provider, as found in claim 12. There is no first and second connection mechanisms associated with a corresponding set of third and fourth connection mechanisms, as found in claim 13.

Rejection of Claims 3 and 6

The Examiner next rejects claims 3 and 6 under 35 U.S.C. §103 as being unpatentable over Bruhnke, in view of US Patent No. 4, 734, 061 to Randall. The Examiner states that Bruhnke fails to disclose "using one or more insulating plugs as disabling mechanisms." To rectify this deficiency, the Examiner cites to Randall. The Examiner states that Randall uses insulating plugs as disabling mechanisms and points to Figures 1, 3, 5; column 2, lines numeral 3-13 for support. Applicants respectfully traverse this rejection.

Referring to the cited portions of Randall, it is clear that the plugs discussed in this reference are not disabling mechanisms. Quite to the contrary, insertion of the plug enables the conductivity of the circuit. For example, referring to column 2, lines

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40-45, the reference states that "completion of the circuit is effected" by unscrewing the plug, inserting the service wire into the cell and then "firmly [screwing the plug] back into the cell until the stud washer is bottomed tightly upon the wire and, thereby completing the contact between the service and stud cable wires." Contrary to inserting a plug to disable a circuit, the reference expressly teaches inserting a plug to enable the circuit. This is contrary to the claim limitation that recites inserting plugs to disable the mechanism. Accordingly, for the reasons set forth above, Applicants submit that claims 3 and 6 are in condition for allowance.

It should be noted that the Examiner also mentions that inserting such plugs for a disabling mechanism is in the state of the art. To the extent that the Examiner relies on such official notice, Applicants respectfully traverse such official notice in accordance with MPEP 2144.03.

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CONCLUSION

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Any fees associated with the filing of this paper should be identified in an accompanying transmittal. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge our Deposit Account No. 07-2347, under Order No. 00-VE13.37 from which the undersigned is authorized to draw. Accordingly, to the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, and the fee therefor should be charged to that Account.

Respectfully submitted,

Dated: _____

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